

1900-054 Chancery Cases: Southwest Virginia Mineral Land Co] vs. David Meredith
Lee Co.

Flanary, Ward, Lunsford, Myers, Cerow

CA - Contract Dispute
T - Property

To the Honorable H. A. W. Skeen,

Judge of the Circuit Court of Lee County, Virginia.

Your orator, The Southwest Virginia Mineral Land Co. a Virginia corporation, humbly complaining, would show unto your Honor that it is the owner in fee simple, and is in actual possession of, a tract of land located in Lee County on Wallen's Ridge and Powell's Mountain and the waters of Lovelady Creek containing 87-1/4 acres, more or less, which is bounded and described as follows, to-wit: (Beginning at a stake where the east line of the tract conveyed June 28th, 1887, by J. B. F. Mills & others to the Southwest Virginia Mineral Land Co. intersects the line of the land belonging to the heirs of Samuel Ward, deceased, known as the Roach farm, thence S. 67 W. 225 poles to a stake; thence S. 35 E. 76 poles to a stake on the line of the original B. F. Habern 2,000 acre tract; thence with said line N. 49 E. 164 poles to a rock in Lovelady Creek, corner to the tract conveyed June 28th, 1887, by J. B. F. Mills & others to the Southwest Virginia Mineral Land Co., said line passing at 26 poles a maple & chestnut on the south side of a spur, corner to said tract; thence with the line of said last mentioned tract due north to the Beginning,) Containing 87-1/4 acres, more or less.

Your orator acquired title to 63 acres of this land by deed from J. B. F. Mills & wife and C. Slemp & wife, dated June 28th, 1887, and recorded in Lee County D. B. 22, p. 380, which deed conveys a boundary of 284 acres, more or less, including said 63 acre tract. It acquired the title to the remainder of said tract, to-wit, 24-1/4 acres by deed from Barton Myers & wife and James W. Gerow & wife, dated the 20th day

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of February, 1893, and recorded in Lee County D. B.____, p.____, conveying to your orator a tract of 288 acres, more or less, which includes said 24-1/4 acres. Said two tracts of land so conveyed to your orator are adjoining tracts, and your orator and those through whom it claims have had the whole of said tracts in actual, adverse, open and exclusive possession for a long period of time, to-wit, for more than fifty years.

At the second February rules, 1893, for the Circuit Court of Lee County, your orator filed a bill in chancery against Nelson Lunsford, Catherine Lunsford, John Lunsford, Mary Ward, widow of Wm. A. J. Ward, dec'd., Lila M., Melvin K., Dolly M. and Willie Kate Ward, children and heirs-at-law of the said Wm. A. J. Ward, who had died intestate, L. D. Ward, admr. of the estate of said Wm. A. J. Ward, J. J. C. Flanary, E. S. Flanary, Charles H. Flanary, Trustee, Barton Myers and Jas. W. Gerow, in which bill your orator set out in full its chain of title to the said two tracts of land, alleging that said title was the best title thereto, and that your orator was in the actual possession of said land, but that the aforesaid Lunsfords and Wards were claiming the 87-1/4 acres of land in controversy by reason of an overlap upon the said two tracts, owned by your orator, by the title papers of one Samuel Ward, deceased, who had died intestate, leaving several children as his heirs-at-law, two of whom were the said Catherine Lunsford and Wm. A. J. Ward; that said children and heirs-at-law had made partition by suit in the Lee Circuit Court for that purpose of the lands inherited by them from their intestate, and that the said 87-1/4 acres of disputed land had been assigned to the said Catherine Lunsford and Wm. A. J. Ward, and that

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----- they were claiming the same adversely to your orator, and were entering upon said lands, cutting timber therefrom and committing numerous and unwarranted acts of trespass. The object of that suit was to quiet title to the said 87-1/4 acres of land and to have rescinded and set aside various conveyances which purported to invest an adverse title thereto in the said Ward heirs. Said bill further set forth a deed of trust from said Wm. A. J. Ward & wife to Charles H. Flanary, Trustee for the benefit of J. J. C. & E.S. Flanary, conveying all of said disputed land.

All the defendants in said suit were served with personal service of process. The four above named children of Wm. A.J. Ward, deceased, who were infants, answered by their guardian ad litem, the said Myers and Gerow answered under oath, supporting the allegations of the bill, and the bill was taken for confessed as to the other said defendants, and a decree was entered in said cause at the March term, to-wit, March 11th, 1893, of the Circuit Court for Lee County, quieting the title of your orator in and to said lands, and rescinding and setting aside all the deeds and other papers mentioned in the bill and proceedings which purported to invest an adverse title to said land in the said Ward heirs. Your orator files a certified copy of said decree of March 11th, 1893, herewith as "Exhibit 1", and it refers to the entire file of papers in said cause of Southwest Virginia Mineral Land Co. vs. Nelson Lunsford, et al., which file of papers is filed in the Lee County Circuit Court Clerk's Office among the decided causes of this court, and prays that said record be read and considered as a part hereof; said decree of March, 1893, being the

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final decree in said cause.

Your orator will now show unto your Honor, ~~xxx~~ as is set out in the aforesaid cause of your orator vs. Nelson Lunsford, et al., the said Wm. A. J. Ward conveyed all of his right, title and interest in and to the said 87-1/4 acres of land to C. H. Flanary, Trustee, to secure J. J. C. Flanary and E. S. Flanary in certain sums of money, which deed of trust is filed in the aforesaid cause as an exhibit. On the ²⁵25th day of September, 1893, which was after the aforesaid decree of March 11th, 1893, the said C. H. Flanary, Trustee, made sale of all of said land which had been conveyed to him to one David Meredith, including all the interest of the said trustee in and to all the said land in controversy, and a deed was thereupon made by the said trustee to said Meredith, which deed was duly recorded in Lee County D. B. ²⁸28 p. ⁵⁸²582, and a certified copy thereof is herewith filed as "Exhibit No. 2", which is prayed to be read as a part hereof. Said deed on its face recites that the said disputed tract of land was claimed by C. Slemp and others, and the conveyance to the said Meredith was made subject to said claim. Your orator charges that the said recital in said deed refers to the controversy between your orator and the said Nelson Lunsford and others, who were defendants in said suit, as your orator claims the said lands through said C. Slemp and others. Your orator has had actual possession of said disputed strip, as well as the remainder of its said lands, from March, 1893, and long prior thereto, to the present time, and is now in the actual possession of said disputed strip, having tenants thereon and otherwise having and performing all the acts incident to the actual possession

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of real estate. It is advised and it charges that the said Meredith did not acquire, and could not acquire, any rights whatever as against your orator by virtue of the said deed from Flanary, Trustee, to him. Yet, notwithstanding this fact the said Meredith, who now lives upon and owns the adjoining tract of land, being the residue of the said tract so conveyed to him by the said Flanary, Trustee, is laying claim to the said ~~8~~⁷ $\frac{1}{4}$ acres strip of land and is threatening to take possession thereof and to put tenants thereon, and to fence it up and himself to acquire it ~~by~~ and do all the acts of general ownership and possession. Your orator is advised that the aforesaid decree of March 11th, 1893, which was not appealed from, became binding upon ^{all} the parties to said suit, including the said C. H. Flanary, Trustee, and the said J. J. C. Flanary and E. S. Flanary, the beneficiaries of said trust deed, and all persons claiming by, through or under them, which includes the said Meredith. Notwithstanding the illegality of said claim, your orator is advised that the said deed from the said trustee to the said Meredith constitutes a cloud upon its title which it is entitled to have removed by a court of equity.

WHEREFORE, the prayer of your orator is: that the said David Meredith be made a party defendant to this bill and be required to answer the same but not on oath, as that is waived that at the hearing hereof your Honor will enter a decree annulling, rescinding and setting aside the conveyance from C.H. Flanary, Trustee, to the said David Meredith in so far as the same affects your orator's said lands, and will enjoin and restrain the said Meredith perpetually, and all parties claim-

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ing by, through or under him, from setting up any claim to the said tract of land, and from doing any acts of ownership or possession in connection therewith; and for such other, further and general relief as to equity may seem meet and the nature of its cause may require, your orator will ever pray &c.

Ort & Irvine
P. J.

Southwest Va. Min. L. Co.

70 } Bill

David Meredith

1900 2nd May Rules Bill
filed & executed &
Decree Nisi

" 1st June rules taken
the last Monday in
May & confirmed
& Cause set for hearing

Lee Circuit Court

Southwest Virginia Mineral Land Company,

Vs.

DECREE:

David Meredith.

This cause coming on this day to be heard upon the bill of complaint and exhibits filed therewith, was argued by counsel. And it appearing that the defendant David Meredith was duly served with process and that this cause was properly matured as to him, and that he failed to answer at the first August rules last pursuant to the permission by an order entered in this cause at the last June term, and still failing to appear to plead, answer or demur, this cause is taken for confessed as to him. Whereupon, it is adjudged, ordered and decreed that the prayer of the plaintiff's bill be granted, and *that* the said plaintiff be quieted to the title to the land in controversy, being the 87-1/4 acres of land situated in Lee Co. on Wallen's Ridge and Powell's Mtn. and the waters of Lovelady Creek, bounded and described as follows, to-wit: Beginning at a stake where the east line of the tract conveyed June 23th, 1887, by J. B. F. Mills & others to the Southwest Virginia Mineral Land Co. intersects the line of the land belonging to the heirs of Samuel Ward, deceased, known as the Roach farm, thence S. 67 W. 225 poles to a stake; thence S. 35 E. 76 poles to a stake on the line of the original B. F. Habern 2,000 acre tract; thence with said line N. 49 E. 164 poles to a rock in Lovelady Creek, corner to the tract conveyed June 23th, 1887, by J. B. F. Mills & others to the Southwest Virginia Mineral Land Co., said line passing at 26 poles a maple & chestnut on the south side of a spur, corner to said tract; thence with

the line of said last mentioned tract due north to the Beginning; and to that end the deed, a copy of which is filed as exhibit 2 with the plaintiff's bill, being the deed dated the 25th day of September, 1893, from C. H. Flanary, Trustee, to David Meredith, recorded in Lee County D. B. 28, p. 582, be, and the same is hereby, rescinded, annulled and set aside in so far as the same affects said land in controversy; and the said David Meredith, his agents, servants and employees and all parties claiming by, through or under him are hereby enjoined and restrained from setting up any claim to the said tract of land under and by virtue of the aforesaid deed from Flanary, Trustee, to said Meredith, and from exercising any acts of ownership or possession over said land, and the plaintiff shall recover its costs from the said defendant. And it appearing that nothing further remains to be done herein, it is ordered that this cause be stricken from the docket.

Southwest 7th Mer Land Co.

Final Decree

David Meredith

Entered C. B. No.

6 p. 445.

Enter this Nov 17th 1900.

H. C. A. S.

ordered that this cause be stricken from the docket.

bearing that nothing further remains to be done hereby, it is
shall receive its costs from the said defendant. And it sh-
ownership of possession over said land, and the plaintiff
Trustee, to said Meredith, and from exercising any estate or
interest in the aforesaid deed from plaintiff,
and restoring to said defendant the possession of the aforesaid land,
and setting up any claim to the said land, or
part thereof, through or under him are hereby enjoined
said David Meredith, his agents, servants and employees, and all
so far as the same affects said land in controversy; and the
and the same is hereby, rescinded, annulled and set aside in
David Meredith, recorded in the County D. B. S., p. 282, be-
Said day of September, 1893, from C. H. Plummer, Trustee, to
Meredith with the plaintiff's bill, being the deed dated the
ing; and to that end the deed, a copy of which is filed as evi-
the line of said last mentioned tract due north to the beginn-

Santhurst Virginia Mining Land Co.

vs

David Meredith

By consent of the
plaintiff by counsel leave is given
the defendant to file an answer
in the clerk's office on or before the
first August rules next if
so advised, and this cause is con-
tinued -

Southwest Va. Mineral Land Co.

V. Gordon
David Meredith

Enter this

~~1st~~ on 15th

June 7th 1900

En- on O. O. B. no 6

\$ 389.

[Receipt to be given where land is redeemed.]

OFFICE OF THE TREASURER OF THE

\$ 493

County of Lee

July 18, 1898

Received of Wm H. Wood By David Meredith
Loan Dollars Ninety Three Cents,

on account of the redemption of 1 Tract land returned delinquent for the non-payment
of Taxes and County Levies by the Treasurer of Lee County, for the year

1894

98

Acres as follows:

State Tax,

\$ 1 72

County Levies for all purposes,

1 72

Commissions,

Expenses of sale,

1 49

Total,

\$ 4 93

W E Wynn

Treasurer.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *David Meredith*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held
for the said court, on the *3rd* Monday in *May 1900* ~~189~~, to answer a
bill in chancery exhibited against *him* in our said court by *South-West*
Virginia Mineral Land Company a Corporation

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the
court-house, the *12th* day of *May 1900* ~~189~~, and in the *124th* year of the
Commonwealth.

A. B. Munsey Clerk

To R. G. H. the man in
the middle

Form No. 300½.

South-West Virginia
Mineral Land Co

US.

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SUBPOENA
IN CHANCERY

David Meredith

Orr & Irvine p. q.

To 2nd May Rules.

1900. Circuit Court.

Executed May the 19th
1900 by Delivering
an offic copy of the
writting to David
Meredith

R. G. Livesay Depl
for W. J. Mileham
S. L. C.